Purchasing an Asset with a Significant Other

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Today, one in four unmarried couples between the ages of 18 and 34 buy a house together, according to a recent survey by Coldwell Banker Real Estate. Purchasing a house or other large asset with your significant other may be desirable, but what happens when the relationship does not work out? Of course, the easiest solution is to sell the asset, pay off the debt and divide the remaining proceeds, assuming the asset is titled in both names.

However, if one party wants to keep the asset, then there are issues that must be addressed. Most importantly, the transfer of title to an asset does not release either of the parties from the debt on the asset; the debt must either be refinanced unless the lender is willing to release the party. If the asset being transferred is real estate, then there will be a two percent transfer tax on one-half of the value of the real estate being transferred. The transfer of a vehicle will impose six percent sales tax on one-half the value of the vehicle.

What happens if one of the parties dies? Depending on how the asset is titled, the deceased party's share will either go to his or her estate or may pass directly to the surviving owner. However, Pennsylvania will impose a fifteen percent inheritance tax on the share that the surviving partner is receiving. Further, there is also the question whether the surviving partner will be able to financially afford to keep the asset.

With the above in mind, the starting point is to determine how the assets will be titled when purchased. There are essentially three forms of ownership. One is that the asset is titled only in one of the parties' name; in this case, the other party has no legal claim to the assets. The assets can also be titled either as tenants in common, in which case, upon the death of one party, the deceased party's share passes to his or her estate. The third form is joint tenants with right of survivorship, meaning the deceased party's share passes to the surviving partner (subject to inheritance tax).

The ownership issues can also be addressed by preparation of an "Ownership Agreement" at or about the time the asset is purchased. This should be drafted by a lawyer. Additionally, the financial issues can be addressed by purchasing life insurance. In both events, while the purchase of an asset is usually an exciting and happy time, thought and planning must be given to the issues that arise if the relationship does not work out.

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